



U.S. Immigration
and Customs
Enforcement

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News Release

TWO HIGH-TECH FIRMS & THEIR EXECUTIVES SENTENCED FOR ILLEGALLY EXPORTING MISSILE TECHNOLOGY TO INDIA

BOSTON, MA. -- Two New England high-technology companies and their top executives were sentenced late Friday, November 18, 2005, in federal court for violating United States export law in connection with the export to India of equipment that is used to manufacture a material that improves the accuracy of strategic ballistic missiles with nuclear capabilities.

United States Attorney Michael J. Sullivan; Matthew J. Etre, Acting Special Agent in Charge of U.S. Immigration and Customs Enforcement (ICE) in New England, and John McKenna, Special Agent in Charge of the U.S. Department of Commerce, Office of Export Enforcement, Boston Field Office, announced that FIBER MATERIALS, INC., of Biddeford, Maine; its wholly-owned subsidiary, MATERIALS INTERNATIONAL of Acton, Massachusetts, and the companies' top two officers, WALTER L. LACHMAN, age 72, of Concord, Massachusetts, and MAURICE H. SUBILIA, Jr., age 58, of Kennebunkport, Maine, were sentenced by U.S. District Judge Douglas P. Woodlock.

LACHMAN was sentenced to 3 years' probation, the first year of which is to be spent in home detention. SUBILIA was sentenced to 3 years' probation, the first 6 months of which is to be spent in community confinement (halfway house), to be followed by 1 year of home detention. The conditions of home confinement permit each defendant to work on a regular schedule and to leave home for medical appointments and for other purposes with the approval of the Court. A fine of \$250,000 was imposed on defendants LACHMAN, SUBILIA, and FIBER MATERIALS, INC. No fine was imposed on MATERIALS INTERNATIONAL because it is a wholly-owned subsidiary of FIBER MATERIALS, INC.

The defendants were each found guilty on March 31, 1995, by a federal trial jury of one count of violating the Export Administration Act and one count of Conspiracy.

Evidence presented during the trial proved that LACHMAN, SUBILIA, and the two corporations conspired to, and did, export a control panel in April 1988 from the United States to the Defense Research Development Laboratory in India, intending for it to operate a production-size hot isostatic press to be subsequently provided by the defendants. A hot isostatic press is used in the processing

of a material called carbon-carbon -- a very lightweight, heat- absorbing material which is used for thermal protection systems and has applications in missile nosetips, rocket nozzles and re-entry heatshields. The control panel required a special export license from the U.S. Department of Commerce for export from the United States to India. The evidence showed that no such license was ever obtained by the defendants. The other equipment was manufactured abroad and therefore did not require a U.S. export license.

The control panel and the isostatic press were sold to Agni -- the defense laboratory developing India's principal nuclear-capable ballistic missile. The contract under which this equipment was supplied was between the defendants and India's Defence Research and Development Laboratory ("DRDL") and was signed by the Project Director of Agni. Evidence presented in connection with sentencing established that the U.S. government and its allies were very concerned at the time of this export about anything that might contribute to India's efforts to develop a nuclear weapon delivery system, and the defendants knew of those concerns.

The evidence established that a production-size hot isostatic press was, in fact, later manufactured in Europe at the defendants' direction, and shipped from there to India. In 1991 and 1992, SUBILIA and FIBER MATERIALS, INC. directed employees to travel to India to install and make fully operational the carbon-carbon processing equipment in India, which included connecting the control panel to the production-size hot isostatic press. DRDL's parent organization, the Defence Research Development Organisation has publicly listed one of the accomplishments of the Agni missile program as the successful establishment of re-entry technology with a carbon-carbon heat shield (<http://www.drdo.org/products/missile.htm>).

After trial in 1995, the defendants filed a motion for a judgment of acquittal notwithstanding the guilty verdict, arguing that the export regulation's use of the term "specially designed" was unconstitutionally vague. The District Court did not rule on this motion until 2003, at which time it allowed the motion and vacated the convictions. In its opinion, the District Court called the defendants' conduct "fundamentally reprehensible" and said the defendants "sought -- for their own private economic advantage and heedless of the national security interests of this country -- to exploit imprecision in the regulatory regime for controlling exports," and, in the process, provided equipment to India which, "may facilitate nuclear weaponry and thereby threaten stability in South Asia." Nevertheless, the District Court concluded that the operative export regulation was void for vagueness. The United States appealed, and in October, 2004, the U.S. Court of Appeals for the First Circuit reversed the District Court and reinstated the convictions, finding the term "specially designed" sufficiently clear.

In sentencing the defendants, the District Court determined that the U.S. Sentencing Guidelines applicable to the defendants' offenses call for a sentence between 41 and 51 months' imprisonment for LACHMAN and between 51 and 63 months' imprisonment for SUBILIA. The Guidelines for SUBILIA were higher because the District Court found that SUBILIA had committed perjury on three different occasions in his testimony at trial. The District Court ruled, however, that this case falls outside the Guidelines, which are now advisory rather than mandatory, because the defendants could not have foreseen that their export would have had more than a minimal effect on Indian missile programs. The District Court also considered the length of the delay in the case as a factor that should mitigate the sentences.

The case was investigated by the U.S. Immigration and Customs Enforcement and the Department of Commerce. It was prosecuted by Assistant U.S. Attorney Despena F. Billings in Sullivan's Anti-Terrorism and National Security Section and Assistant U.S. Attorney James D. Herbert in Sullivan's Organized Crime Strike Force Unit.

ICE

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security (DHS). ICE seeks to prevent acts of terrorism by targeting the people, money and materials that support terror and criminal networks.